

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, ARKANSAS
CIVIL DIVISION

MONICA WILLIAMS, and
SANDRA GARDNER, Individually

PLAINTIFFS

vs.

DONALD ELLSWORTH, and
TRIAD TRANSPORT, INC.

DEFENDANTS

CASE NO. CV-2012-550-2

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW the Plaintiffs, Monica Williams and Sandra Gardner, Individually, by and through their attorney, Nathan B. Lewis of Bowman & Lewis, PLLC, and for their causes of action against the Defendants, Donald Ellsworth and Triad Transport, Inc., to the Court state and allege:

PARTIES

1. The Plaintiffs at all Triads mentioned in this complaint, are citizens and residents of the State of Arkansas.
2. Defendant Donald Ellsworth, at all times mentioned in this complaint is a resident of McAlester, Oklahoma. He can be served at 2300 S. Main, Apt. 21, McAlester, OK 74501. Donald Ellsworth is hereinafter referred to as Ellsworth.
3. Defendant Triad Transport, Inc., at all times mentioned in this complaint, is an Oklahoma Corporation registered to do business in Arkansas, whose principle place of business is McAlester, OK. The agent for service of process for Triad Transport, Inc., is

EXHIBIT
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FILED IN MY OFFICE AND SUMMONS

ISSUED AT 2:55 O'CLOCK PM

SEP 28 2012 DATE

LAFAYETTE WOODS, SR., CLERK

Christopher Lawson and can be served at 3425 North Futrall Drive, Ste. 103, Fayetteville, AR 72703. Triad Transport, Inc., is hereinafter referred to as TRIAD.

4. At all times mentioned in this Complaint, Ellsworth was an agent, servant, employee, and/or statutory employee of TRIAD.
5. At all times mentioned herein in this Complaint, Ellsworth was acting during and within the scope of his agency, employment, joint employment, statutory employment, and/or under the joint and/or direct control of the Defendant, TRIAD.
6. As a result of the relationship of Ellsworth to the Defendant TRIAD, all actions of Ellsworth are herein imputed to the Defendant, TRIAD.

JURISDICTION AND VENUE

7. This is a cause of action arising from a motor vehicle wreck that occurred on December 7, 2011. Jurisdiction is proper under A.C.A 16-4-101. Venue is proper under A.C.A. 16-60-112.

COUNT I – PERSONAL INJURY

8. On May 7, 2011, at approximately 7:45 a.m., the driver, Ellsworth, was operating a tractor-trailer vehicle for the corporation TRIAD within the scope of his employment. Ellsworth's vehicle was headed eastbound on Industrial Drive in Pine Bluff, Arkansas. At the same time and place, Monica Williams, along with her passenger, Sandra Gardner, were travelling northbound on North Hutchinson.
9. Ellsworth failed to stop at a stop sign at the intersection of Industrial Drive and North Hutchinson. Due to Ellsworth's failure to stop, Monica Williams struck Ellsworth's vehicle.
10. At the Triad of impact, Ellsworth was guilty of the following negligent acts:

- a) Driving too fast for conditions;
- b) Failure to keep a proper lookout, specifically the vehicle occupied by Monica William and Sandra Gardner;
- c) Failure to keep his vehicle under proper control;
- d) Failure to yield the right of way; and
- e) Disregarding a stop sign.

As a direct and proximate result of the above-described negligent acts of Ellsworth imputed to the Defendant, TRIAD, Monica Williams and Sandra Gardner, suffered serious multiple injuries.

COUNT II – NEGLIGENT HIRING

11. The actions of Ellsworth, imputed to TRIAD, show violations of the rules of the road and make TRIAD guilty of negligence for the hiring of Defendant Donald Ellsworth. TRIAD knew, or should have known, that its failure to research and screen potential employees would result in injury to the motoring public. However, TRIAD failed to perform their due diligence in the hiring of Ellsworth, resulting in injury to the motoring public.

COUNT III – NEGLIGENT TRAINING AND SUPERVISION

12. The actions of Ellsworth, imputed to TRIAD, show violations of the rules of the road and make TRIAD guilty of negligent training and supervision concerning Defendant Donald Ellsworth. TRIAD knew, or should have known, that its failure to train and supervise Ellsworth would result in injury to the motoring public. However, TIIME failed to perform their due diligence in the hiring and supervision of Ellsworth, resulting in injury to the motoring public.

DAMAGES

13. As a direct and proximate result of Ellsworth's negligent, careless, and negligent conduct imputed to the Defendant, TRIAD, the Plaintiffs have sustained severe, and painful injuries. The Plaintiffs have endured much pain, suffering, and mental anguish and will continue to have pain, suffering, and mental anguish in the future.
14. As a direct and proximate result of Ellsworth's negligent, careless, and reckless conduct imputed to the Defendant, TRIAD, the Plaintiffs have been required to expend large sums of money for expenses to the ambulance company, hospital, doctors, prescription medication, and related medical treatment as a result of the injuries they sustained. The Plaintiffs will be required to expend additional sums of money for medical treatment in the future.
15. By reason of the above damages proximately caused by the negligent conduct of Ellsworth imputed to the Defendant, TRIAD, The Plaintiffs are entitled to recover from the Defendants, and each of them, jointly and severally, a sum greater than the Federal Court jurisdictional limits for diversity suits.

WHEREFORE, premises considered, the Plaintiffs, Monica Williams and Sandra Gardner, individually, pray for judgment against the Defendants, Donald Ellsworth and Triad Transport, Inc., each of them, jointly and severally, for a sum in excess of the Federal Court jurisdictional limits in diversity cases; for costs of this action; and all of the proper relief to which the Plaintiffs may be entitled.

RESPECTFULLY SUBMITTED

MONICA WILLIAMS
SANDA GARDNER

By:



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